

Sending Out Bills Years Later

Listmates,

New business has been awful for me the last couple of months. It would be nice if some old clients paid their bills until business picks up again.

There's a few clients from a few years back that still owe me some money. I long ago stopped sending them bills because the postage started to add up.

What if I were to send another bill or two now after all this time? Any chance they might pony up a payment or two? Or would it be another wasted stamp?

For the price of a stamp, it couldn't hurt.

If the statute of limitations hasn't run on an account stated claim in your jurisdiction, you could sue to recover the unpaid fees (your malpractice carrier may not want you to sue for fees, though). Bringing your own lawsuit will be cheaper than sending the matter out to collections.

<http://www.indepayment.com/> is another option.

Lisa Solomon, New York

I'm not looking to sue, although I never heard of indepayment before, thank you for the link.

I'm really just hoping to recoup a couple hundred dollars here and there. I leaned on one client recently who ended up sending me \$100, which is better than nothing.

Jason Komninos

Worth a stamp if you have the time, but if they weren't paying you then, I doubt they'll pay now.

Michael D. Caccavo, Vermont

My understanding is that professional liability carriers aren't fond of attorneys suing their own clients; however, if the statute of limitations is up on any potentially connected malpractice claims it might be worthwhile to take them to small claims court.

Best regards,

Joseph D. Kamenshchik, New York

Just a thought here. I give a talk sometimes at religious retreats, in which I tell a story, part of which is as follows:

"And at this point, several of my clients owed me a bunch of money for my work: they were not paying, and I was beginning to feel that I had been heading in the wrong direction for years. I did not know if I really wanted to continue this, or if I should look for a firm to join, or even a company to sign up with. Nobody seemed to have any ideas for me...

"So one evening in July, I prayed as I had never prayed before. I sat out on the patio, and said 'God, I really do not know what to do with my life. I feel aimless and lost. I am forty years old with no direction.'

And, after a bit of time doing that, the weirdest thing happened: God spoke to me. Or, at least, it sure seemed that way. He said two things:

the first one was to 'forgive your debtors,' and the second one was to 'call' a specific person that he named. The first was easy to

understand: as I said, I had several clients who owed me thousands of dollars for my services and had not made any payments for months, and sometimes years. So I was supposed to forgive them. Okay.

...

"But why not. The very next morning, I composed letters to all those clients who had not been paying me for months. I wrote 'I know times are tough for you, so I am cancelling your debt. You do not owe me anything.'

My best regards, and I wish you success and happiness in the future."

(I won't bother going into what resulted from my calling the lawyer, which is not relevant here.) But anyway, I sent off the letters that morning. I honestly forgave those debts, and put those matters behind me. The funny thing? Within a few months, every one of those clients paid me in full.

I really was just trying for a fresh start, and forgiving these old debtors was a part of it. It did help to clear my thinking, and put things behind me: instead of fretting over all those old debts, I focused more on new business and moving forward. (Incidentally enough, I've gotten a lot better about requiring retainers since then, too.)

It was an interesting period.

Michael A. Koenecke, Texas

I tend to bill deadbeats on a sliding scale, with decreasing frequency over time. Some eventually pay. At about the two-year point, I make the call as to whether I would sue on the debt. If not, I pretty much write them off at two years. For those I would sue (and I have sued a few, and I have another scheduled week after next), I take all the requisite steps required by the Bar, such as making sure I've notified them of the fee dispute program, and advising that if they do not notify me within 30 days of disagreement with the bill, or contact the Bar to dispute the amount, I will take that as validation of the debt. Depending on the amount, I may agree to accept a payment plan (because some people think if they can't pay it in full, they'll just "hold off" until they can), and in one case, I got a partial payment and a Confession of Judgment for the balance.

Sometimes, their fortunes have changed, and they may be able to pay now, but have just forgotten. Sometimes, they just deserve a kick in the kiester with a pointy boot.

-Rick

Richard J. Rutledge, Jr., North Carolina

Michael makes a good point. I know I said earlier ' why not, its just the cost of a stamp', but sometimes that's not the whole story.

I think you can get a lot from that 'forgiveness' attitude. Once you decide to write off those old debts, you can clear them from your mind, stop worrying about them and move forward. Your time is much better spent seeking new clients and improving your services than chasing deadbeat bills.

Also, he's right, that the act of notifying them of the write off may in fact prompt payment. On the other hand, even if it doesn't, it might relieve their guilt, and make them feel able to bring you that new matter they've been dealing with but afraid to bring you because of the old bill (

Note: I would be sure to say in the write off letter 'If I can ever be of service again, please do contact me.'). Of course, you will re-think and revise your retainer policies to minimize the possibility of that happening again, but it is surprising how it might generate new business.

Michael D. Caccavo

Basically once the bill goes over 90 days it is not collectible. You may have to sue to get paid.

Frederick G. Irtz, II

I also enjoyed Michael's story but I just don't have that much faith in people. If I were to send that letter, I expect people to say "oh how nice of him to forgive my debt" and they'd turn around and spend that money on the latest greatest iPhone even though they just got the last model 6 months ago.

Jason Komninos

That's the thing: I honestly did not expect to get paid.

I sued a client for fees once (some time before that incident). A friend of mine handled the lawsuit, which went to a trial before the bench. It was actually pretty comical. The client had a tobacco shop. I had accepted three pipes from him, and duly credited their cost against his bill (he showed me the invoices). At trial, he claimed that the pipes had rare amber stems and were worth some 10 times what I claimed they were (which was a flat out lie). I had to demonstrate to the judge personally that they were not amber, but regular plastic.

Be that as it may, although I was awarded my entire fees, plus attorney's fees and court costs, I never collected a cent, because soon thereafter he filed for Chapter 7 bankruptcy.

The lesson (which I had to re-learn many times over the years) is never to let a client get very far in arrears: all that does is build resentment, and they are less and less likely to want to pay you since the perceived value of your services is less and less. Yesterday's legal services are worth spit.

Michael A. Koenecke

Should you also give notice to Delinquent that you will be issuing an IRS Form 1099-MIS for the entire amount forgiven?

Paul G. Kostro, New Jersey

Sorry, just as you cannot deduct pro bono legal work, you don't get to

1099 for income you never received, unless you *and* your client happen to do your books on the accrual basis, meaning you already recognized income for tax purposes and he or she already took a deduction for the expense.

My federal income tax professor, Parker Fielder, explained to us the TANSTAAFL principle very early in the course.

Michael A. Koenecke

You actually can send a 1099 to the deadbeat client. They received something of value and did not pay for it. The IRS recognizes this as income to the non-paying. If you do this, rest assured there will be no future business from this client.

John Miles

If you say so. I disagree, and suspect most CPAs would as well.

Michael A. Koenecke

You only can do that if you're on accrual basis, which I expect most of us aren't.

Laura S. Mann, New Jersey

As long as you don't violate your SOL, it can't hurt.

Barry Kaufman

Email the bill!!!

Rinky S. Parwani, Florida

I feel for ya! First, know you are not alone. This issue comes up quite a bit in my world - attorneys who for one reason or another, don't bill or don't bill routinely and then, even worse, don't follow up after bills have been sent.

The most effective way I have found to help attorneys collect on past bills is to remove them from the collection process. For you, it is emotional. For your clients it is too. Top it off, you want to keep the relationship positive and when too much time passes with money owed, it is very hard to do that.

What you need to do is take the emotion out by making it a process of your office.

Begin by collecting all the paperwork that shows which client owes what and be sure your numbers are right. Then, I'd start with a letter from your office (note not you) <- even a form letter is better. In it, indicate that there is a past due balance, send copies of the paperwork/past invoices you collected, and request a call to the office to discuss when "the firm" can expect payment.

Next comes the follow up calls - by someone other than you - weekly for most; until there is an answer as to when the client will be submitting payment or the client shares why they think payment is not due. If the client says money is not due - you should be advised and then you will have to get involved to work out why the client thinks they don't owe you. Otherwise, weekly calls/voicemails to each client from someone other than you, until you have been paid or advised why you are not owed.

Do you have anyone, a part time clerk or receptionist who can be the point person for these communications?

Andrea Cannavina, not a lawyer

Thank you everyone for the responses. There are a lot of good ideas in this thread.

Unfortunately, I do not have any staff to help me with phone calls to clients, but I understand how a call from someone other than me might have an impact.

I stopped taking payment plans awhile back for this exact reason. People swear up and down that they'll stick to a payment plan and then they just don't. It makes me feel like the view me as a chump, as if to say "I'll tell this jerk lawyer that I'll give him half now and half next month and then just stiff him! He won't see it coming! Hahaha!" So if people didn't have my full legal fee upfront, they didn't get my services and I didn't get the business. Now I am signed up for LawPay which allows me to do recurring

billing to a credit card. So the only way I'd even entertain doing a payment plan for someone is if they provide me with authorization to bill their card every month until the balance is paid. But that's not a guarantee the card can't be declined.

It's tough out there. People seem to have plenty of money for iPhones, iPads, XBoxes, designer clothes, illegal drugs, etc., but they cry poor to their lawyer. So my willingness to offer a payment plan isn't exactly high.

Original Poster

Right now the owed and unpaid fees of \$\$\$ are doing you no good and worse they are a source of stress for you. Since you have no staff, maybe consider engaging Andrea and handing this whole pile of a hot mess over to her. Sure she, or anyone else, will take a fee but getting \$\$ in the door instead of \$\$\$ is better than where you are now. Plus, it will free you to move forward. Sounds like along the way you have refined and improved your process. As Becki used to write here, what is the highest and best use of your time?

Deb Matthews, Virginia

You can outsource your collection calls and letters.

Laura S. Mann

I would say the best use of my time is getting good results for my current clients and getting new (paying) clients. I usually don't have a problem with the former but the latter is the hardest part of solo practice in my opinion.

Jason Komninos

The only installment payment plan I offer is for credit card payments, as well: clients that wish to make installment payments can pay my full fee using their credit card, and then they can make as many installment payments as they want to their credit card company to pay down their credit card bill.

Dan Turner, Florida

The only problem I have with that arrangement is that credit card payments can be disputed and when you charge the whole amount, the whole amount can come under review of the credit card company if it is ever disputed <-even years down the road

True story: at the campground, a family with no experience camping decided it would be fun. It would have, had they not placed their propane tank (one of the little green ones normally used for cooking) too close to their actual fire. They left to do whatever (yes their fire was still hot and yet they left), and the propane tank blew - burning out the whole site; ruining their gear and clothes. Thankfully, no one was hurt! However, when they returned, they asked for their money back and the owners were not so inclined as they had damages they now had to pay for ... so the campers contested the payment to the campground through their credit card and although they caused damage to the grounds (the site was not rentable for the rest of the season); they won.

My preferred payment method is and always will be via check.

Andrea Cannavina, nope notta

The lesson (which I had to re-learn many times over the years) is never to let a client get very far in arrears: all that does is build resentment, and they are less and less likely to want to pay you since the perceived value of your services is less and less. Yesterday's legal services are worth spit.

Amen.

Yeah, this is a lesson worth learning.

Ideally, you get your money up front; if you can't get all of it up front at least get a substantial portion (more than 50%) up front.

And keep reasonably current on the bills. Look, it's a LOT easier to budget for several more modest bills than one big whopper; client is more inclined to pay reasonably promptly if you bill for current work that they can see (i.e, here's our response, and request for admissions, here's the bill for that work) as opposed to paying for something they saw 6 months ago; and you will be in a better position to figure out if you need to stop doing work on the file if they're not paying you, or at least threaten to stop work or withdraw.

Ronald Jones, Florida

So, my firm and our predecessor firm definitely have plenty of uncollected cases, mostly not mine.

I see no harm in sending out the bills. We have some clients who may not pay the whole bill, but pay some portion after years of not paying anything. Some clients send us \$100 every time they get a bill, so we try to remember to send one monthly. If you are concerned about postage costs (really, how much does that add up to?), you can email them if the clients have email. We've had some clients who didn't pay paper bills but paid when emailed with a link to our credit card payment site. However, for many the opposite is true - they ignore the emails but pay the paper bills.

That said, there are bills we don't collect and probably won't. But we also have an uncollected bills client list that we maintain, and if, years later, that client comes to us with help in another case, we require full payment of the old case PLUS a bigger than normal retainer for the new one. In a larger city, this may not be as likely as it is here, but we've definitely had deadbeat clients come back to us and gotten bills paid that way. However, if it is really a source of stress for you (it isn't much of one for me), then you may just want to let it go.

I have a call scheduled this morning, in fact, for a client with a past due bill from several years ago who wanted to discuss it before paying.

Cynthia V. Hall, Florida

